



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-833]

Citric Acid and Certain Citrate Salts from Thailand: Affirmative Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that citric acid and certain citrate salts (citric acid) from Thailand are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation (POI) April 1, 2016, through March 31, 2017. In addition, we determine that critical circumstances exist with respect to certain imports of the subject merchandise.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Joy Zhang (COFCO), George McMahon (Niran), or Cindy Robinson (Sunshine), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1168, (202) 482-1167, or (202) 482-3797, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* of sales at LTFV of citric acid from Thailand on January 8, 2018, in which we also postponed the final determination until May

26, 2018.<sup>1</sup> We invited interested parties to comment on the *Preliminary Determination*.

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final determination of this investigation is now May 29, 2018.<sup>2</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is adopted by this notice.<sup>3</sup>

#### Scope of the Investigation

The product covered by this investigation is citric acid from Thailand. For a full description of the scope of this investigation, see the “Scope of the Investigation” in Appendix I of this notice.

#### Scope Comments

Prior to the *Preliminary Determination*, we issued a Preliminary Scope Decision Memorandum.<sup>4</sup> We subsequently invited parties to submit additional scope comments in their case briefs, but received none. Therefore, for the final determination, we continue to find that

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<sup>1</sup> See *Citric Acid and Certain Citrate Salts from Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Critical Circumstances Determination, in Part, and Postponement of Final Determination and Extension of Provisional Measures*, 83 FR 784 (January 8, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

<sup>3</sup> See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Citric Acid and Certain Citrate Salts from Thailand,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>4</sup> See Memorandum “Scope Comments Decision Memorandum for the Preliminary Determinations,” dated December 1, 2017 (Preliminary Scope Decision Memorandum).

the scope of the investigation as defined in the *Initiation Notice*<sup>5</sup> and the *Preliminary Determination*<sup>6</sup> remains applicable. See Appendix I.

#### Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), from January through March 2018, we conducted verification of the sales and cost information submitted by respondents, COFCO Biochemical (Thailand) Co., Ltd. (COFCO), Niran (Thailand) Co., Ltd. (Niran), and Sunshine Biotech International Co., Ltd. (Sunshine) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by COFCO, Niran, and Sunshine.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the interested parties are addressed in the Issues and Decision Memorandum accompanying this notice, which is hereby adopted by this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and it is available to all parties in the Central Records Unit, Room B-8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and

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<sup>5</sup> See *Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 29828 (June 30, 2017) (*Initiation Notice*) and accompanying Initiation Checklist.

<sup>6</sup> See *Preliminary Determination*, 83 FR at 786.

Decision Memorandum are identical in content.

#### Changes Since the Preliminary Determination

In accordance with sections 776(a)(1) and 776(a)(2)(A)–(D) of the Act, we have applied partial adverse facts available (AFA) to Sunshine with respect to the cost of a product which Sunshine sold during the POI but did not produce during the POI because Sunshine failed, prior to the cost verification, to fully disclose the fact that additional materials and equipment were necessary to produce this product compared to other products that were produced and sold during the POI. In addition, we made certain changes to the margin calculations for COFCO, Niran, and Sunshine. These changes are discussed in the “Changes Since the Preliminary Determination” section of the Issues and Decision Memorandum.

#### Final Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206, we preliminarily found that critical circumstances exist with respect to imports of citric acid from one of the mandatory respondents, Niran, and do not exist with respect to COFCO, Sunshine and the companies covered by the “all others” rate.<sup>7</sup> Commerce received no comments regarding this issue after the *Preliminary Determination*. Therefore, based on our analysis, for the final determination we continue to find that, in accordance with section 735(a)(3) of the Act, and 19 CFR 351.206, critical circumstances exist with respect to subject merchandise produced or exported by Niran, but do not exist with respect to COFCO, Sunshine and the companies covered by the “all others” rate.

#### All-Others Rate

Section 735(c)(5)(A) of the Act provides that, in the final determination, Commerce shall

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<sup>7</sup> See Preliminary Decision Memorandum, at 8-13.

determine an estimated weighted-average dumping margin for all-other exporters and producers not individually examined. This rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters or producers individually examined, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act.

Commerce calculated the all-others rate based on a weighted average of the estimated weighted-average dumping margins calculated for the three mandatory respondents: COFCO, Niran, and Sunshine, none of which are zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others' rate using a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's business proprietary data for the merchandise under consideration.<sup>8</sup>

#### Final Determination

The final estimated weighted-average dumping margins are as follows:

<b>Exporter/Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
COFCO Biochemical (Thailand) Co., Ltd. (COFCO)	15.71
Niran (Thailand) Co., Ltd. (Niran)	13.00
Sunshine Biotech International Co., Ltd. (Sunshine)	6.47
All-Others	11.25

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<sup>8</sup> For a complete analysis of the data, please *see* the All-Others Rate Calculation Memorandum dated concurrently with this notice.

## Disclosure

We will disclose to interested parties the calculations performed in this final determination within five days of any public announcement in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of citric acid from Thailand, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after January 8, 2018, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

For entries made by Niran, in accordance with section 735(c)(4)(A) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of citric acid from Thailand which were entered, or withdrawn from warehouse, for consumption on or after October 10, 2017, which is 90 days prior to the date of publication of the *Preliminary Determination*. Additionally, for entries made by companies covered by the “all others” rate, in accordance with section 735(c)(4)(B) of the Act, because we continue to find that critical circumstances do not exist with regard to imports from all other producers and exporters of citric acid from Thailand, we will instruct CBP to continue to suspend liquidation of all appropriate entries of citric acid from Thailand which were entered, or withdrawn from warehouse, for consumption on or after January 8, 2018, which is the date of publication of the *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.10(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated

weighted-average dumping margins or the estimate all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted average dumping margin established for the producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for countervailable export subsidies, Commerce offsets the estimated weighted-average dumping margin by the appropriate CVD rate. However, in the companion CVD final determination, Commerce has determined that no countervailable export subsidies are being provided to the production or exportation of subject merchandise. Accordingly, we made no adjustment for the export subsidy offset to the estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the

likelihood of sales) for importation of citric acid from Thailand no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.



### Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

*Dated: May 29, 2018.*

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Gary Taverman,  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance.

### **Appendix I**

#### **Scope of the Investigation**

The merchandise covered by this investigation includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate.

The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both

trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Changes Since the Preliminary Determination
- V. Use of Partial Facts Available
- VI. Final Affirmative Determination of Critical Circumstances, in Part
- VII. Discussion of the Issues

#### **COFCO**

- Comment 1: The Levels of Trade that Exist in the U.S. and Home Market (HM)
- Comment 2: Whether to Modify COFCO's General and Administrative (G&A) Expense Rate for Certain Offsetting Income
- Comment 3: Whether to Modify COFCO's G&A Expense Rate for Allowance for Doubtful Accounts
- Comment 4: Imputed Interest Expense from Affiliated Party Loans

#### **Niran**

- Comment 5: Whether to Include Minor Corrections from the Sales and Cost Verifications

#### **Sunshine**

- Comment 6: Whether to Base Sunshine's Cost of Production for Trisodium Citrate (TSC) on Partial Adverse Facts Available
- Comment 7: Whether to Increase Sunshine's Raw Material Costs to Account for Excluded Cassava Costs
- Comment 8: Whether to Exclude Sunshine's Waived Interest Expenses

#### **VIII. Recommendation**